

## ***“The EU’s Power Play in the Balkans – How Soft, How Civilian, How Effective?”***

(Contribution to the Project “Soft Power in the 21<sup>st</sup> Century”, Draft  
by Bernhard Stahl, 18 December 2010)

### **1. Introduction**

In many ways, the Balkans provide the ideal test case for the EU’s foreign policy. This has to do, first of all, with the spectrum of problems the Union is facing there. Since Yugoslavia stumbled into the abyss of nationalism, war and ethnic cleansing in the beginning of the 1990s, the region has remained Europe’s no. 1 trouble-spot – the international tensions following Kosovo recognition being the latest off-spring of the region’s troubles. Secondly, regarding South-Eastern Europe, other great powers increasingly attribute problem-solving capacity to Brussels. This was already the case when the George H.W. Bush administration refrained from intervening in the Croatian war in 1991 and also characterizes the gradual political withdrawal from the region by the George W. Bush and Obama administrations in recent years. Thirdly, the EU is increasingly attributing to itself a leading role in the region. In this regard, the revolving Balkan crises have served as a catalyst for the EU’s evolving foreign policy, and for the Common Security and Defence Policy (ESDP/CSDP) in particular. The establishment of the High Representative for Common Foreign and Security Policy (HR) therefore would have hardly been conceivable without the bitter lessons learned in the Bosnian wars (1992-95). In a sense, then, the problems in the Western Balkans triggered the EU’s institution-building.

Considering the above mentioned theme the research question reads: “Did the EU act as a civilian power and/or soft power in the Balkans and to what extent was this successful?” For that purpose, the subsequent theoretical part will briefly introduce Nye’s concept of soft power. Moreover, soft power will be put in relation to a similar approach: the civilian power model (Elias, Duchêne, Maull). In order to embark upon the multi-faceted issue of foreign policy success the soft power and civilian power concepts will be complemented by some insights of research on the EU’s “actorness”. Embedded in the actorness model the analytical terms of “cohesion/coherence” and of “capacity to act” deserve attention. Both analytical terms allow for building hypotheses on the EU’s foreign policy success. The following empirical analysis will mainly focus on EU actors (Commission, High Representative, Presidency, member states). In the respective case studies (see below), other great power

policies are also taken into account in order to enable assessments on the relative value of the EU's soft/civilian power quality.

### *Case study selection*

The Kosovo war 1998-99 triggered a sea-change regarding the EU's Balkan policy: moving away from a policy that regarded the region as a playground of Western great power interests and striving for a sustainable, long-term commitment. The EU's range of options in dealing with the troubled region stretches from merely declaratory rhetoric and symbolic action to financial assistance and the prospect of eventual accession – the latter being the EU's most effective foreign policy tool. In this study, I will look at three case studies which comprise the wide range of challenges with which the EU is confronted. In the Kosovo war (1998-99), the EU followed a forced diplomacy strategy which finally led to military action under the leadership of the USA. In this case, the inter-relation between diplomatic endeavours and hard power became obvious. The second case study touches upon an issue that has been of continuing significance within the region since the beginning of the 1990s: the secession problem. I will focus on the EU's Kosovo policy (2000-2008), which encompasses two interrelated issues, namely state-building and state recognition. Finally, the EU's most effective foreign policy tool will be examined: the accession perspective. By scrutinizing the negotiations on the Stabilisation and Association Agreement (SAA) between the EU and Serbia the relevance and effectiveness of the conditionality principle will be evaluated (2003-2010).

<b>Foreign policy challenge</b>	<b>Case study</b>	<b>Time period</b>
Forced diplomacy and military action	Kosovo war	1998-99
State-building and recognition	Kosovo	2000-2008
Accession	SAA with Serbia	2005-2010

Each case study starts with a brief introduction of the context of the case. Subsequently, a chronological description entails the actors' main behavioural patterns. Finally, an "assessment" emphasizes the analytical findings in the light of analytical criteria which will be introduced below.

Since the Kosovo war is already well documented, the analysis here can largely rely on secondary sources. The other two case studies – by contrast – are based on primary sources from newspapers.

## **2. Theoretical Insights: Soft Versus Civilian Power**

The notion of ‘power’ has always been at the heart of International Relations (IR) theorising. Until today, most definitions and approaches share a common understanding that goes back to Max Weber’s famous definition which defined power as the probability that one actor in a social relationship will be in a position to carry out his will despite resistance, regardless of the basis on which this probability rests (Weber 1922). In the tradition of Morgenthau (1948), the long time dominating realist school of thought in IR has postulated a conflict-based understanding of power. *In extremis*, power is simply based on a state’s “capabilities” (Waltz 1979) which enables it to force others to do what the powerful intends to do. The soft power concept, as introduced by Joseph Nye (1990, 2004), in principle adopts Weber’s above cited definition. Yet it proposes more subtle means: A soft power “[aims at] getting others to want the outcomes that you want [and] co-opts people rather than coerces them” (Nye 2004, 5). Further rapprochements speak of “the power of attraction” and “a staple of daily democratic politics”. The ability to pursue soft power politics requires “intangible assets” such as “attractive personality, culture, political values and institutions, and politics that are seen as legitimate or having moral authority” (ibid p.6). And bearing in mind that agenda setting represents an important soft power resource (ibid 7). Soft power complements hard power which rests upon “carrots” i.e. economic incentives and the “stick” (threat, military force). Sharing the objective with hard power politics – i.e. to achieve the desired outcome – soft power politics uses a different approach. Instead of “command politics” it prefers the “co-optive” way (ibid 7). But admittedly, “soft power resources are slower, more diffuse, and more cumbersome to wield than hard-power resources” (ibid. 100).

The civilian power model can be traced back to the work of the German sociologist Norbert Elias (2000) who published his monumental piece “*The Civilising Process*” in 1939. By examining the state-building process of France, he held that monopolising force, imitating behaviour, and creating a tax monopoly significantly contributed to France’s civilisation. François Duchêne and Hanns W. Maull took up this idea and applied his model to the international system. In the early 1970s, Duchêne applied Elias’ idea to the European Communities. In Duchêne’s view, the EC achieved a zone of peace by delegating sovereign rights to Brussels and creating interdependence by trade and investment. Having become

peaceful inside enabled the EC to turn outside, exporting democratic and civilian norms in order to domesticate inter-state relations (Duchêne 1973). Hanns W. Maull (1990; 1992) has enriched the foreign policy literature by introducing a new type of foreign policy which largely deviates from traditional great power features: the civilian power. Maull started from the evident observation that Germany and Japan did not fit into the categories the realist IR theory provided. A civilian power, he states, is characterized by the following elements:

- Institution-building,
- Following and enhancing the rule of law,
- Seeking partners in international politics (“never alone” principle)
- Serving as a norm entrepreneur,
- Pro-active attitude,
- Military force as *ultima ratio*.

In a research project on civilian powers, these six elements were further condensed to three: norm entrepreneurship, the pro-active will to act and the readiness to give up sovereignty (Frenkler et al 1997). In a similar vein, Dieter Senghaas (2006) proposed a “civilisational hexagon” which serves to assess conflict management policies. Duchêne’s, Maull’s and Senghaas’ insights continue to have an impact on EU foreign policy studies – the most recent example is Ian Manners’ grasp of the EU as a “normative power” (Manners 2008).

So the two models “civilian power” and “soft power” stem from different backgrounds. The former goes back to a nation-state model (France), was then applied to the EC and re-transferred to national foreign policies (Germany and Japan). The latter used to be a model which seemed apt to analyse US foreign policy before spilling over to the EU. When comparing the two models some similarities and differences are striking. Both models stress the importance of international institutions, of legitimacy and of attraction. Both models became victims of their scientific success: Since their inauguration in the theoretical debate they have been taken up by practitioners and politicians alike who have been widely employing the terms in speeches and political debates. Soft power, for instance, has frequently been used to denote the EU’s European Neighbourhood Policy (Tulmets 2007, 198). Yet by so doing, the analytical precision of the terms got lost. For instance, Nye made it unmistakably clear that economic sanctions and even strong economic inducements do not fall into the soft power category. Consequently, the EU’s conditionality principle<sup>1</sup> is – analytically speaking - a hard power tool. But in the political debate, the EU is often

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<sup>1</sup> Conditionality means achieving compliance by economic incentives: If the target government does not comply with the conditions set, the EU withholds the reward (Schimmelfennig 2007, 127)

characterized as soft power only lacking hard power means – attributing exclusively military capabilities to hard power.

Yet evidently, a **first major difference** between the two models touches upon the underlying foreign policy aims. While a soft power is primarily preoccupied with the outcomes of its foreign policy, a civilian power aspires to contribute to an idealistic goal: civilising international relations. Hence, the success of a soft power can be measured by criteria such as costs and efficiency.<sup>2</sup> By contrast, a civilian power's success rests upon ideational criteria, e.g. enforcing the rule of law, deepening of institutions and the peaceful solution of conflicts. This argument, though, treats both approaches as actor-based models. In a strict sense, this is not the case, since soft power rather represents a resource a country might employ.<sup>3</sup> By contrast, civilian power denotes the characteristics of an actor. In brief, the EU *is* a civilian power but *makes use of* soft power. This difference brings about epistemological consequences. For instance, a re-current research question in German foreign policy asks whether Germany is still a civilian power (e.g. Maull 2000). For Nye's analysis of recent US foreign policy, the research question reads to what extent the US employs soft power (Nye 1990) or has failed to do so (Nye 2004).

**Thirdly**, by definition, a foreign policy based on soft power tends to be less coherent due to the many foreign policy actors the government can hardly control (Nye 2004, 17). For a civilian power, which is based on an ideational consensus between government and political élite consistency means less of a problem.

**Fourthly**, a soft power's legitimacy and moral authority is under-specified since it is not clarified where the legitimacy comes from. It seems that legitimacy may also derive from domestic sources such as the democratic model or a historically successful economic system providing chances for the individual "pursuit of happiness" – "output legitimacy", as Scharpf (1999) would put it. A civilian power, though, explicitly relies on international legitimacy i.e. the rule of law and international norms ("input legitimacy").

Not least, the models' counter-categories deserve some attention. For both models, I would argue that defining comprehensible counter-categories have hardly been achieved. For soft power, Nye has introduced "hard power" as one (2004, 5-9). But hard power is complementary to soft power and Nye even makes the point that soft power cannot be effective without hard power. Effective foreign policy, so Nye's argument goes, means

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<sup>2</sup> For instance, Nye (2004, 27, 81) makes the argument that the Bush's government decision to by-pass the UN in the case of the Third Gulf War turned out to be costly. For a civilian power, though, the problem was legitimacy, not costs.

<sup>3</sup> I thank my colleague Sebastian Harnisch for drawing my attention to this point.

“learning better how to combine (...) hard and soft power” which he calls “smart power” (ibid 32). Superficial reading of Nye’s studies suggests that the difference between hard and soft power only refers to the level of foreign policy instruments employed. Indeed, Nye largely accepts the rationalist common ground of describing the international system as anarchic and conflict-ridden. For instance, Nye makes the argument that soft power can “make countries switch from balancing to bandwagoning” (2004, 26). Hence, he does not embark on the fundamental ontological differences between realist and liberal theories in IR - which became apparent in the inter-paradigm debate in the 1980s regarding goal-orientation, the role of institutions and the nature of conflicts. Rather, Nye uses the pragmatic argument that in the long-run soft power would simply be more effective than hard power.

Similarly, a civilian power’s analytical counter-part remains vague. Inevitably, two counter-categories emerge: un-civilised countries and great powers. Both share foreign policy behaviours which seem to stem from the 19<sup>th</sup> century world prioritising the sovereignty principle, down-playing the chances of cooperation, while relying primarily on traditional diplomacy and military means.<sup>4</sup>

### **3. The EU as an Evolving Foreign Policy Actor**

#### *EU Foreign Policy*

Foreign policy means the attempt to influence the attitude and the behaviour of other international actors. Foreign policies, as Carlsnaes has put it, are

*„Foreign policies consist of those actions which, expressed in the form of explicitly stated goals, commitments and/or directives, and pursued by governmental representatives acting on behalf of their sovereign communities, are directed towards objectives, conditions and actors – both governmental and non-governmental – which they want to affect and which lie beyond their territorial legitimacy“ (Carlsnaes 2002, 335).“*

Addressees of foreign policy are both state as well as non-state actors - be it tourists, terrorists or non-governmental organisations. Regarding addressees, no differences occur between national and EU foreign policy. In the early years, the literature spoke of “European Foreign Policy”. Since this term may include foreign policies of non-EU members such as Switzerland, “EU Foreign Policy” is now the preferred term (Wong 2005, 141). “EU Foreign Policy” is a fast growing topic in literature. A pragmatic definition of EU Foreign Policy is provided Hill (1998, 18), claiming that EU foreign policy is made up of “(...) the sum of what

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<sup>4</sup> In the literature, this dichotomy is also associated with “modern” v “post-modern” foreign policies.

*the EU and its member states do in international relations*". In more recent definitions, the EU's capacity to take deliberate action is emphasized:

*"The foreign policy of the European Union is the capacity to make and implement policies abroad that promote the domestic values, interests and policies of the European Union."*  
(Smith H. 2002, 8)

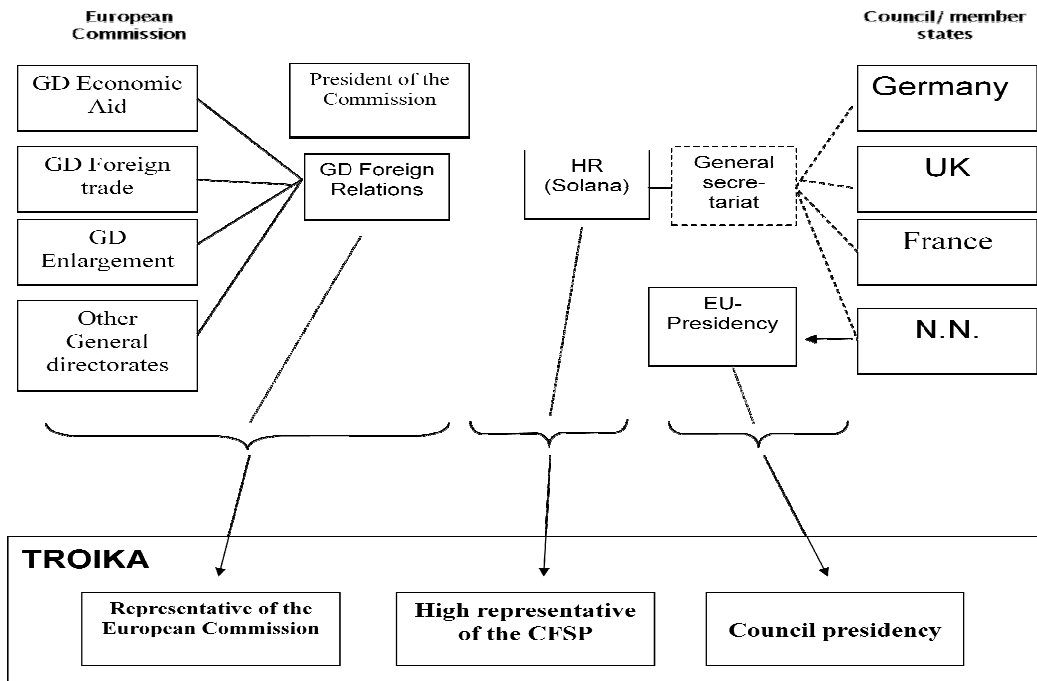
Over time, the EU has been gaining competence in a variety of policy fields complementing, paralleling and interacting with the member states' foreign policies. From early on, the analytically motivated question arose from this as to whether and, if so, the degree to which the EU could be regarded as an international actor (Sjøstedt 1977, 11).

The EU's actorness is legally defined by the powers which are granted by the treaties. Right from the start of EU foreign policy, the EU's authority was split.<sup>5</sup> Whereas the supranational actor, the European Commission, gained ground by becoming responsible for more and more issue areas, the intergovernmental branch – in form of the European Political Cooperation – has remained legally outside the Communities for a long time (1970-93). Only after the creation of the CFSP in Maastricht was the member states' coordination in foreign policy placed under the umbrella of the union. Yet, the member states' reluctance to align decision-making procedures created the infamous "Maastricht Temple Structure" – with foreign policy remaining an exclusively intergovernmental realm.<sup>6</sup> Over time, a substantial institutionalisation has been taking place. In Amsterdam, a High Representative and a policy unit were created to give the Union's foreign policy a face. After the summits of Cologne and Helsinki in 1999, an ESDP for power projection was launched, setting up a Military Committee and a Military Staff. Despite the fact that all of this institution-building took place in the intergovernmental second pillar, it meant a significant strengthening of the Union's foreign policy capacity. This process, termed "Brusselisation," came to a peak in the Lisbon treaty, through the creation of the "double hat," when the Commission's DG External Relations Commissioner fused with the High Representative. Thus, on the whole, the crises in the Balkans were paralleled by a step-wise but steady up-grade of the Union's authority to act.

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<sup>5</sup> This has led to drastic assessments of EU actorness: „*To describe the EU's external representation as confusing would be a huge understatement. If it were an individual, the CFSP would have long been enclosed in a psychiatric ward with doctors assessing how it could have survived so long with such a deep split personality.*“ (Cameron 2007, 15).

<sup>6</sup> The Lisbon Treaty – in force since December 2009 – superficially abolished the temple structure by introducing the general features on CFSP in the TEU whereas the more specific "communitarised" regulations comprising foreign aid, foreign economic policy etc. can be found in the "Treaty on the Functioning of the European Union of the European Union".



Graph 1 (by the author): *The Polity of the EU's Foreign Policy Between Amsterdam (1999) and Lisbon (2009)*

Three different types of EU actors formulate EU foreign policy (White 2001, 40f.): The European Communities, first and foremost the European Commission, administer the communitarised policies of the Union which formerly belonged to the „first pillar“ such as agrarian, enlargement and foreign trade policies. The European Union acts in the framework of the “Common Foreign and Security Policy” (CFSP), formerly the second pillar, which is led by the presidency and the High Representative. Not least, important fields remain within the ownership of the member states which pursue their respective foreign policies in, through, and beyond the Union institutions. Admittedly, the scope and relevance of the national foreign policies have been diminishing in the last decades (Jørgensen 2004, 46). Yet, national foreign policies still remain more important than EU external relations and the CFSP (White 2004, 60).

By now, EU foreign policy and the above introduced attributes of the civilian and soft power model can be put together. By enumerating the core attributes some differences are revealed:

Theoretical model	Criteria/attributes
<b>EU makes use of soft power...</b> (Nye 1990, 2004)	<b>The EU as a civilian power...</b> (Maull 1990, 1992)
Shapes others' preferences by using inducements	Seeks to 'civilise' iR, hedges and mitigates conflicts



Makes use of institutions	Builds and supports institutions
Co-opts partners	Acts multilaterally ('never alone')
Acts as moral authority requiring legitimacy	Promotes rule of law, Norm entrepreneur
Serves as model because of cultural and moral attraction	Requires like-minded partners to be effective
Balances hard and soft power (smart power)	Uses force as <i>ultima ratio</i>
Exercises power with the help of different (also non-governmental) actors	Is made up of government and elite
Makes use of culture as a means of foreign policy	Projects domestic values to int. system

*Table 2:* Soft Power and Civilian Power: Theoretical Differences (by author)

*Foreign Policy Success: Actorness and Effectiveness*

In order to analytically grasp the Union's foreign policy different "actorness" models have been introduced (Sjøstedt 1977; Allen and Smith 1990; Jupille and Caporaso 1998; Bretherton and Vogler 2006). Two analytical categories seem central for most actorness models. A first refers to the EU's "capacity to act". Only if the EU disposes adequate resources, the standard argument goes, it could become successful.<sup>7</sup> Moreover – as Chris Hill (1993) has observed - the Union suffers from an "expectations-capabilities gap": The huge expectations which are put forward do not meet the modest institutional capabilities. With regard to the above-introduced power definitions by Nye the following hypothesis (1a) can be formulated: The more hard power the EU employs the more successful its foreign policy becomes. The alternative hypothesis (1b) reads: The more soft power the EU employs the more successful its foreign policy becomes.

The second analytical category used here is "coherence"<sup>8</sup>. In the literature on EU actorness, coherence serves as a necessary condition for foreign policy success. The degree to which EU actors agree on their politics and policies pre-determines the likelihood of success. Simon Nuttall (2005, 97) has proposed three forms of coherence: institutional (between different EU organs), vertical (between member states and the EU) and horizontal (between different policies). As we have learned from the civilian power model, acting together ('never alone') is constitutional for a civilian power. In the member state perspective this applies to the decision-making in Brussels, in the EU perspective we should expect the EU to seeking

<sup>7</sup> The "capacity to act", therefore, serves as essential element of EU actorness definitions, e.g. Bretherton and Vogler (2006), Jopp and Schlotter (2007), 11f.

<sup>8</sup> Jupille/Caporaso (1998, 214-221) use the term „cohesion“ in their actorness concept. In the English-speaking world, the term "consistency" is equally present while in the French and German discourse "coherence"/"Kohärenz" is the preferred analytical term.

international coherence. In addition, a research project on civilian powers came to the conclusion that “civilian powers need partners” to be effective. So the coherence hypothesis (2) reads: The more coherent the EU acts the more successful its foreign policy will become.

Most of the literature on EU foreign policy has tended to be inward-looking dealing with institutional changes, questions of legitimacy and the impact of the member states. How the Union did in world affairs seemed to matter less and when it did the findings were overall negative. Indeed, lamenting the Union’s ineffectiveness has accompanied EU foreign policy right from its start (e.g. Bull 1982). Even after the significant institutional changes of Maastricht critics deplored policy failure when it came to foreign policy crisis (Gordon 1997). Over time, though, assessments became more nuanced and even very positive at times:

*“In practice, the Union can now intervene in any area of the world in almost any aspect of foreign policy. It has a massive armoury of instruments and activities that it can mobilise to achieve its objectives abroad. [...] we undoubtedly find that the EU has a comprehensive, extensive and sometimes remarkably effective foreign policy.”*

*(Smith, H. 2002, 267).*

Yet, actorship models have so far suffered from a serious flaw: They do not incorporate any outcome dimension. To put it in another way, the EU’s actorship might be significant but ineffective. Hence, actorship serves as a necessary but not sufficient condition for the EU’s foreign policy success. As a factor determining the “sufficient” conditions “on the ground”, namely the conflict partners and third parties come into play. The insight that “the other” contributes to the EU’s success is largely shared by leadership theories claiming that “*desired (...) outcomes not only depend on the accurate assessment of opportunities and constraints but also on the interaction of (...) foreign policy behaviour with that of other countries*” (Breuning 2007, 32).

In the following, I try to operationalise “outcome” by linking it to foreign policy success. Considering that success is a slippery path to walk on (Jørgensen 1998), I will link success to the two concepts introduced. In the soft power model, “outcome” has to be judged on the basis of the actors’ intentions. If the actor wanted to contain a conflict and achieved this, one could speak of a success. In the civilian actor model, success looks somewhat more demanding. The “outcome” should have contributed to the civilising of international relations, international law should have been strengthened and durable and sustainable institutions should have been built. So in the following analysis I am asking whether, first, the EU objectives have been met (hard/soft power success) and, second, whether the EU has achieved solutions which led to civilisational progress (civilian power success).

## 4. Case studies

### 4.1 *Forced Diplomacy and Military Action: The Kosovo War (1998-99)*

#### *Context*

The problems in Kosovo, which had been ever-growing since the 1980s, did not capture the attention of the international community. Indeed, both the Bush- as well as the Clinton administration warned Belgrade about an escalation of the conflict (“Christmas-Warnings”; Daalder/O’Hanlon 2000, 29), which, however, remained without consequences. The Dayton negotiations in 1995 were focused on the termination of the wars in Bosnia; the Kosovo-issue was excluded from the negotiations. This period of negligence went on until 1998. The European Union realised early on that the former Yugoslavian successor states were in need of help pushing through democratic as well as economic reforms, and therefore proposed the ‘regional approach’ (cf. Lippert 1997, 238-239) as a concept in October 1995. Only one year after Dayton, however, the western unison had vanished: France diplomatically acknowledged the Socialist Federal Republic of Yugoslavia (SFRY, only consisting of Serbia and Montenegro by then).<sup>9</sup> Great Britain, Germany, Italy, and the Netherlands agreed reluctantly. The US, however, did not comply. Yugoslavia’s split acknowledgement was an early rejection of Ibrahim Rugova’s plan concerning Kosovo’s peaceful independence within the SFRY since the international acknowledgement intended Kosovo to stay with Serbia. In September 1996, the EU lifted the most important sanctions against Yugoslavia despite the European Parliament’s allegations of human rights violations in Kosovo (cf. Giersch 200b: 501).<sup>10</sup> The EU member states followed France pursuing a conciliatory course vis-à-vis Belgrade since they perceived signs of a more constructive and integrative policy on Milošević’s part.<sup>11</sup> Yet, granting Yugoslavia autonomous trade preferences in April 1997 did not help to de-escalate the conflict (Calic 1999, 23).

#### *The Conflict Escalates – The EU Still Incoherent*

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<sup>9</sup> It was assumed that Paris had taken this step within secret negotiations as a return service for the release of two French pilots who were held in captivity, see Reuter (1998, 283).

<sup>10</sup> As early as on 21 April 1996, an Albanian student was shot by a Serb in Priština. When the UÇK activists made an appearance for the first time on the next day and killed three Serbs in a café in Dečani, the international community ignored this (Glenny 1999, 652-654).

<sup>11</sup> The successful mediating initiative by the Italian organisation *Comunità di Sant’Egidio* in 1996, which managed to mediate a treaty between Rugova and Milošević for the abolition of ethnic discrimination at the schools and universities in Kosovo was an important sign of this. As Dammann (2000, 41) emphasises, the positive echo of the international community was very strong, so the UN, EU, OSCE and Contact Group resolutions and papers 1997 and 1998 continuously referred to this document.

Between the end of 1995 until 1997, it seemed as if the mistakes of 1990-1992 would be repeated. The member states perceived the conflict primarily as interest-based rather than rooted in identity issues. Hopes for a quick end to the conflict (wishful thinking), and selective perception concerning Milošević's willingness to compromise were characteristic of Western policy (Maull and Stahl 2002, 99-102).

Only in 1998 did a change of thinking occur. At the end of February 1998, a large offensive launched by the Serbian police in the Drenica valley that killed about 80 Albanians of whom the majority were civilians caught the attention of the western European governments (cf. Giersch 2000a, 447; Skrpec 2003, 97). In early March, hints of drastic measures taken by the Serbian security forces accumulated. Thus, in Prekaz, a leader of the UÇK was shot together with his clan of about 50 people (cf. Malcom 2006, 145). Yugoslavian head of state played down the incidents towards British Foreign Minister Robin Cook and denied any responsibility on the part of the Serbian security forces (cf. Judah 2002, 140). On 9 March, however, the first Kosovo meeting between the Ministers of the contact group (USA, Germany, France, Great Britain, Italy and Russia) took place in London.

The Contact Group (CG), which had already functioned as an intergovernmental ad-hoc-institution during the Bosnia conflicts, was to play a crucial role within the international handling of the conflict (Schwegmann 2003). At this point, however, the group was not able to agree on a consistent reaction. When it threatened sanctions against Milošević and set an ultimatum, Germany, France, Russia and Italy effected a postponement in favour of Yugoslavia without a recognisable service in return (Troebst 1999, 171). Furthermore, both the French as well as the German Foreign Minister interpreted Milošević's behaviour after the expiration of the deadline as having met the requirements (Sharp 1998, 31). The Western powers continued their indecisive and incoherent policy towards Yugoslavia that has been criticised by academics as 'appeasement policy' and 'friendly overture' (ibid 28).<sup>12</sup>

UN Security Council resolution 1160, an insisting letter by the French President and warnings by the British government went unheard (Stahl 2006, 194). Only after the US threatened to dissolve the Contact Group, did the Europeans agree on a more consistent sanction policy (Daalder/O'Hanlon 2000, 29). The EU adhered to the resolutions of the

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<sup>12</sup> Also the UK – in the tradition of its Bosnia policy (cf. Hodge 2006, 2) - pursued an ambivalent policy towards Serbia in this early phase. Still in summer 1998, the administration prevented rapidly putting into effect a boycott on air traffic within the borders of the EU against which they claimed legalistic objections (Wickham-Jones 2000, 24). The change of government in 1997, however, resulted in surprising changes of Britain's ESDP policy and its attitude towards Yugoslavia. The newly-elect government under Prime Minister Tony Blair and Foreign Minister Robin Cook was to become an unrelenting agent of a hard line towards Milošević (Richardson 2000, 146).

contact group and imposed a whole catalogue of sanctions until June.<sup>13</sup> Subsequently, the EU yielded the diplomatic floor to US-Ambassador in Macedonia Christopher Hill and US special emissary Richard Holbrooke (Giersch 2000b, 502-503). With this, the negotiations with Belgrade and the Kosovo Albanians were mostly led by the Clinton-administration and partly by the contact group, while the EU only took on a supportive role (Dammann 2000, 54). Under the British lead western members of the contact group proposed an international intervention in Kosovo to Russia on 12 June 1998. Russia, however, declined. At the instigation of the British and American governments the diplomatic efforts were to be made effective by the construction of a military threat. NATO appeared on the scene.

*The US Leads, the EU Follows: The Emergence of the Military option*

The emergence of military options was easily integrated into the Clinton and Blair administrations' double strategy, which complemented the diplomatic efforts by preparing military action. In July, for the first time, Germany approved of the deployment of "robust" international forces that were supposed to guarantee the truce.<sup>14</sup> Meanwhile in Kosovo, however, violence was proliferating. From April until September 1998, Serbian troops destroyed more than 300 villages (Malcolm 2006, 147). On 23 September, UN resolution 1199, with reference to chapter VII, claimed the immediate termination of all hostilities, the withdrawal of the Serbian Special Forces, and the commencement of constructive talks between the opposing parties. This resolution for the first time held Serbia responsible for the situation and directed extensive claims at Belgrade. Also for the first time, it qualified the conflict as a threat to peace and international security.<sup>15</sup> The US and Britain in particular – though not so much Russia and China – interpreted this as legitimising further military options. The next day, NATO threatened the Yugoslavian government with air strikes. Despite worries regarding international law Germany, Italy and France also in principle approved of an intervention (Albright 2005, 472). The European Parliament called for military action as well with the resolution of 8 October – in case of emergency if need be without a mandate of the UN.<sup>16</sup> France, however, voiced concerns about the amount of refugees, which would rise in the case of military actions, and thus insisted on the primacy of

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<sup>13</sup> An embargo on police equipment, the annulment of state credit- and investment aid, the freezing of foreign accounts, a prohibition of investment as well as a selective denial of entrance visa were among these measures (Giersch 2000b, 502).

<sup>14</sup> Cf. *Kinkel ruft im Kosovo-Konflikt nach Zwangsmaßnahmen der Vereinten Nationen*, in: Frankfurter Allgemeine Zeitung, 23 July 1998.

<sup>15</sup> Cf United Nations Security Council: *Resolution 1199 (1998)*, 23 September 1998.

<sup>16</sup> *Das EU-Parlament für Militäraktion im Kosovo*, in: Neue Zürcher Zeitung, 9 October 1998.

the Security Council.<sup>17</sup> In Berlin, the decision of the government-designate was supported by the will to prevent a weakening of Holbrooke's position in Belgrade when negotiating with Milošević (cf. Fischer 2007, 104-109).

Yugoslav President Milošević reacted by approving of the claims of the US-representative, and declared themselves ready to comply with the following concessions in the frame of the so-called Holbrooke-Milošević Agreement on 13 October. Following a French initiative the UN Security Council (Res. 1203), on 24 October 1998, launched a verification mission which was supported by Britain and the US (cf. Fortmann and Viau 2000, 96). Yet Milošević hardly realised the implications of the mission while - to make matters worse - the UÇK did not feel bound by the agreement (Judah 2002, 189). In December, attacks by the UÇK as well as repressions and displacements in Kosovo proliferated again. The western media's attention was finally aroused by news in mid January.

#### *The Račak Incident, the Convergence of Perceptions and the EU as Mediator*

45 Albanian civilians were killed in Račak on 15 January 1999 – most probably by Serbian forces. This massacre can be considered as a turning point in the international perception of the Kosovo conflict.<sup>18</sup> Now, also the formerly hesitant governments of Europe – France and Russia among them – changed their course towards the US and British hard line. Consequently, NATO sent a warning to the Serbian government saying they were determined to intervene militarily. After a meeting in London on 29 January, the contact group ultimately called on Yugoslavia and the Kosovo-Albanians to end the conflict within three weeks. For this, every party involved was invited for talks at Rambouillet, a Parisian suburb.<sup>19</sup>

The negotiations of Rambouillet between the Serbian government and the delegation of the Kosovo-Albanians opened on 6 February 1999 with an emotional opening speech by the French President in which he reminded his audience of the Franco-German reconciliation and appealed to the conflicting parties to show 'courage for peace' (cf. Judah 2002, 202). Among the central problems of the negotiations were the future status of Kosovo, NATO's military presence and its relation to Yugoslavia's sovereignty, as well as the disagreement of the

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<sup>17</sup> Cf. Whitney, Craig: *Western Officials say Accord on Kosovo Seems Uncertain*, in: New York Times, 1 July 1998, A6; Whitney, Craig: *France Urges Allies to Define Plan for Autonomy for Kosovo*, in: New York Times, 25 June 1998, A6.

<sup>18</sup> Not only is this valid within the American administration (cf. Albright 2005, 476-479; Daalder/O'Hanlon 2000, 64), but also for the American congress which had until then been very reluctant about a military intervention, cf. Ramet (2000, 372).

<sup>19</sup> „Kontaktgruppe fordert Ende des Kosovo-Konflikts“, in: Frankfurter Allgemeine Zeitung, 30 January 1999.

contact group about the question of flexibility that was to be shown with regard to sensitive topics (ibid 66). Furthermore, the negotiations were overshadowed by never-ceasing news of displacements and violent excesses in Kosovo. According to the UN Commissioner for Refugees (UNHCR) there were 230,000 Albanians displaced from their homes in total, 60,000 of whom had already been displaced since December 1998, a further 30,000 after the end of the Rambouillet negotiations (cf. Krause 2000, 410).

This was aggravated by the disagreement between western negotiating partners on an important issue: While American Secretary of State Madeleine Albright called for the West's unrelenting attitude towards Belgrade, French Foreign Minister Védrine did not want to give up his neutral position as mediator.<sup>20</sup> Together with his British counterpart Cook he accused Albright of counterproductively influencing the negotiations (Kampfner 2004, 43).<sup>21</sup>

The Rambouillet conference did not produce any results – even though the final statement suggested otherwise. After heavy pressure from the West, the Albanian delegation finally accepted the agreement regarding the political framework and the civil and military implementation for peace in Kosovo.<sup>22</sup> Foreign Minister Fischer visited Belgrade to make Milošević realise the eventual drastic consequences of his ongoing intransigence – in vain (Fischer 2007, 144-147). Therefore, the negotiations were suspended on 19 March. The international community felt compelled to take action – not least because of the refugee problem. By the end of May about 1.5 million people had left their homes (cf. Giersch 2000a, 456). The Western media portrayed their fate in detail which heightened the pressure on the governments to intervene.

The verification mission of the OSCE had left Kosovo by 20 March 1999. On the same day, Serbian forces launched a large-scale offensive aimed at the displacement of the Albanian population (Judah 2002, 233). Four days later, on 24 March, NATO launched their air strikes against Serbia ('Operation Allied Force') which triggered further escalation on the ground:

*“Within hours of the first NATO bombs hitting their targets in Serbia, Milošević's forces inside Kosovo had embarked on a campaign of murder, looting and intimidation aiming at driving the bulk of Kosovo Albanian's population out of the territory. The speed of this campaign, and the scale of human suffering it caused, eclipsed even the*

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<sup>20</sup> Wiegel, Michaela: *Gegen Amerikas Ein-Mann-Show*, in: Frankfurter Allgemeine Zeitung, 25 February 1999, p. 6.

<sup>21</sup> From the Yugoslav Foreign Minister Milan Milutinović's comments one may conclude that these tensions rather damaged the credibility of the West, cf. Reuter/Katsaropoulou (1999, 152-153).

<sup>22</sup> The Rambouillet-plan did not immediately foresee Kosovo's independence. However, included were free elections and a decision about its status after a three years period. Furthermore, the Albanian delegation hoped for a further weakening of the Serbian position due to the upcoming air strikes, Link, Werner: *In der Sackgasse*, in: Frankfurter Rundschau, 4 April 1999.

*'cleansing' of non-Serbs from northern and eastern Bosnia in 1992.*

(Malcolm 2002, xxviii).

The US provided the main part of the aerial forces accounting for two thirds of all operations while the UK's, France's and Germany's contributions added up to 30%. In this period, the French and German governments pursued a tough stance vis-à-vis Belgrade and presented themselves as a loyal ally of the US. Furthermore, France – supported by the Greek government - managed to influence target selection, and to prevent a naval blockade called for by the US (ibid, 96-99; Kraft 2000, 273). However, Paris could not push through its idea to suspend attacks after a few days without services in return (Albright 2005, 494). London presented itself even more determined than Washington and insisted on unrelenting actions by the West (Kampfner 2004, 48).

The NATO-allies had counted on a quick reaction on Belgrade's part. While the allies brought in more and more aerial divisions and continually expanded the catalogue of targets, criticism about their inability to stop the displacement campaign in Kosovo became stronger. This was supported by misled air strikes – e.g. against a refugee camp in Kosovo on 14 April and against the Chinese embassy in Belgrade on 7 May 1999. On the occasion of NATO's 50 years ceremony, the British idea of deploying ground troops was publicly considered for the first time. As a result, the alliance agreed to double the troops at the Albanian and Macedonian border by dispatching another 50,000 troops. This British line to impress Milošević was also shared by President Clinton.<sup>23</sup> However, Italy and Germany remained reluctant and stuck to their “No” in principle, while France continued to express scepticism (cf. Albright 2005, 502).

The German government drafted a 5-point catalogue which sketched NATO goals and claims towards Milošević. This catalogue, which was afterwards termed ‘Fischer-Plan’, from then on served as a backbone of the political process and can be found in the statement of the NATO Foreign Minister of 12 April, as well as within a statement by the EU special summit of 14/15 April and the Kosovo statement of the NATO summit of 24 April 1999 (cf. Joetze 2001, 103).

The external diplomatic efforts including Russia were focused on the Troika (EU, US, Russia) and the G8. While within the Troika Serbian surrender terms were discussed, within G8 the Security Council resolution was developed (Joetze 2001, 142) which was approved by Serbia in June 1999.

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<sup>23</sup> Beamont, Peter/Wintour, Patrick: *Kosovo: The Untold Story*, The Observer, 15 July 1999, pp. 16-20, p. 20.



After the end of the air strikes, France, the United Kingdom, and Germany, among others, declared their readiness to participate in an international security presence in the KFOR frame. Following the UN Security Council resolution 1244, the EU committed itself to Kosovo supporting the United Nations Interim Administration Mission in Kosovo (UNMIK).<sup>24</sup> This engagement fit into the EU's new overall Balkan strategy (Cameron 2006, 102-103). The Kosovo war also triggered integration in the area of defence.<sup>25</sup> At the Council meetings in Cologne, Helsinki, Feira and Nice far reaching agreements were passed launching a European Security and Defence Policy (ESDP).

### *Assessment*

The EU's fragmented foreign policy profile was clearly recognisable during the Kosovo crisis. The EU mainly acted through the nation states, less so as Council and EU special representative. The community actors, the Commission and the European Parliament, stayed passive. This only changed with the opening of the accession perspective for the Western Balkans in June 1999, by which point the Commission, in particular, started to play a very active role Kosovo policy.

In addition, it became apparent how the member states interacted within and with constantly changing institutions: contact group, UN, NATO, G8, OSCE, EU – all of these institutions participated in the conflict resolution. However, one cannot speak of consistent action taken by the EU. In the beginning, different perceptions of the escalating violence in Kosovo marked Western and EU incoherence. Then, in the summer of 1998, the Clinton-administration's behaviour changed so that from then on military solutions by NATO became an option (summer 1998). Since the EU lacked any "capacity to act" political decision-making went over to NATO, the US in particular. The widely perceived lack of military capacities in the EU was a motive to intensify efforts for the ESDP's origination in the aftermath of the crisis.<sup>26</sup> By following the US (considering that Britain was the real "driver"!), the member states' policies started to converge. The formative event of Račak as well as the failing negotiations in Rambouillet enhanced the convergence. Now, after partly heated domestic debates, a "Kosovo intervention consensus" had emerged (Harnisch and Stahl 2009). Russia's intransigence was important in so far as it influenced the institutional choice and the legitimacy discourse regarding military air strikes. The remaining divergences

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<sup>24</sup> Cf. United Nations Security Council: *Resolution 1244 (1999)*, 10 June 1999.

<sup>25</sup> Bertram, Christoph/Grant, Charles/Heisbourg, François: *Mehr Europa, mehr Verteidigung, weniger Kosten*, in: Frankfurter Allgemeine Zeitung, 15 July 2000, p. 12.

<sup>26</sup> Cf. Bertram, Christoph/Grant, Charles/Heisbourg, François: *Mehr Europa, mehr Verteidigung, weniger Kosten*, in: Frankfurter Allgemeine Zeitung, 15 July 2000, p. 12.

touched upon the issue of ground troops (March to June 1999). The greatest coherence was finally achieved during the post-conflict phase, in which the EU participated in the administration and military occupation with important resources (since July 1999).

The pro-active EU presence during the post-conflict period poses a strong contrast to the passivity of the military period. When violence escalated, the EU's soft power by no means sufficed to generate positive results in the negotiations. Hence, the EU and the US switched to hard power: forced diplomacy and the bombing campaign. The civilian power EU learned that up-holding credibility and propagating values might become costly: The on-going ethnic cleansing in Kosovo demanded military force as *ultima ratio*.

#### **4.2 State-Building and Recognition: Kosovo (2000-2008)**

##### *Context*

The Kosovo War triggered a substantial learning process in Brussels which meant a sea-change in the EU's Balkan policy: moving away from a policy that regarded the region as a playground of Western great power interests and toward a sustainable, long-term commitment (Glenny 2000; Swoboda and Stahl 2009). On 10 June 1999, the UN Security Council passed Resolution 1244, marking a dramatic shift for the commitment of the international community and thus the EU. Both initiated a long-term plan to pacify and stabilize Kosovo and to re-build the shattered province economically, politically, and socially. More specifically, the EU launched the "Stability Pact for South-Eastern Europe".<sup>27</sup> The pact marked a fundamental change in Western European thinking about the region, because ideationally it turned South-Eastern Europe from a 'region in the near abroad' into a constitutive part of Europe. EU Council meetings in Feira, Zagreb (2000) and Thessaloniki (2003) consistently re-affirmed the new approach (Altmann 2005, 8-9).

Institutionally, the decision for a conflict resolution strategy based on pre-enlargement meant that the Commission would hold considerable authority to devise and implement policies. The trend for Commission autonomy was further strengthened when the international community hastily agreed upon a very complex institutional framework for the administration of Kosovo (Hopkinson 2006, 169). Within the framework, NATO is the prime security provider through KFOR – the US, Germany, Britain, France and Italy being the most important troop contributors. UNMIK (i.e. UN Mission in Kosovo) heads the political administration which is divided into four pillars, with the UN in charge of the police and the law system (I) and the

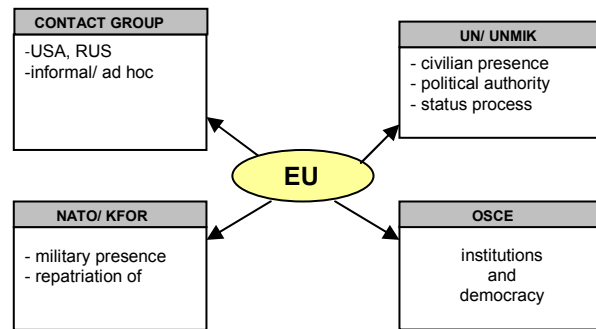
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<sup>27</sup> Stability Pact for South Eastern Europe: *SCSP Constituent Document*, Cologne, 10 June 1999, <http://www.stabilitypact.org/constituent/990610-cologne.asp> [29/06/2010].

civil administration (II). Pillar III, institutions and democracy, falls into the OSCE's competence. The EU is responsible for Pillar IV, reconstruction and development.<sup>28</sup>

The institutional set-up suggests that the EU is a minor actor, dominated by UNMIK. But the EU and its member states are key players in the institutions administrating the other pillars (see graph below).

*Graph 3 (by the author): The EU in the Kosovo Administration*



While the Commission heads pillar IV, EU member states are pro-active members of the UNO (pillar I and II). They also constitute the majority of OSCE (pillar III) and NATO (KFOR) participating countries.

### *The EU as a State-Building Actor*

Within the international framework, the EU Commission was the central player in reconstructing economic institutions in Kosovo in the eight years to come, establishing an external tariff regime, a tax system, the privatisation of previously state-owned companies, a monetary system based on the DM (later to become the Euro), a banking system and measures securing energy supply. It also contributed substantially to the creation of the Kosovar Ministries for Economics as well as for Trade and Industry (Kramer/Džihic 2005, 30-33; Benkő 2001, 55-60). Most importantly, however, the Commission started to treat Kosovo as a “quasi-state” early on by integrating it into the Stabilization and Association Process (SAP): While *de jure* Kosovo was represented by UNMIK in the SAP, *in praxi* Kosovo was treated as a „fully-fledged partner in many [...] regional processes“ (Kuehne 2007, 10). In terms of concrete policies, the Commission initially concentrated on funding energy and economic sector projects, but over time, efforts spilled over to other sectors, namely security and civil society.<sup>29</sup> As a result, the Commission spent more than €1,000,000,000 in Kosovo between

<sup>28</sup> United Nations Security Council: *Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo*, 12 July 1999, Para. 101-102.

<sup>29</sup> KFOR and UNMIK resources were substantially cut in 2002/2003, as the attention of the international community turned to Iraq and Afghanistan.

1999 and 2007, becoming its most important donor. Over time, the EU increasingly acted beyond the UNMIK framework. For instance, the European Community Humanitarian Aid Office (ECHO), spent €165,4 Mio. between 1999 and 2001 alone (European Commission 2002, 9). Moreover, the European Agency for Reconstruction and Development (EAR) was to become the most important EU-institution in Kosovo by streamlining community means into concrete projects and by coordinating various projects granted by different donors.<sup>30</sup> Following the first democratic elections at a local and municipal level in 2001/2002, this explicit and substantial state-building policy, however, increasingly clashed with the EU member states position on Kosovo's status.

### *On Standards and Status: the EU as a Captured Peace-Builder*

Regarding the future political status of Kosovo, Resolution 1244 was ambiguous.<sup>31</sup> Resolution 1244 stated that the province “*should gain substantial autonomy in the Yugoslav Republic*”, thus remaining *de jure* under Serbian jurisdiction. *De facto*, however, as Kosovo was put under an international administration and thus separated from the Serbian heartland. To gain some time for a political solution, the international community postponed any final decision on Kosovo's status in order to avoid further conflicts (ICG 2002, 1-2). It thus held back a central political resource for gaining domestic support by all Kosovar factions. Indeed, while building up state functions, and thus the need for public consent, the EU remained silent on the status question between 1999 and 2002. Then, in November 2002, UNMIK chief Michael Steiner claimed that only if certain standards of good governance were met, the status question would be addressed. The Commission supported the junctim by linking Kosovo to its association strategy formulating a „*Stabilisation and Association Tracking Mechanism*“ (STM) while asserting the province's “European perspective“:

*“Kosovo is a part of Europe and together with the rest of the region aspires to become a full member of the European family. [...] Our commitment to help Kosovo to get closer to the EU is therefore beyond doubt.”*<sup>32</sup>

In the following years, the Commission carefully avoided prejudicing any status change – an approach of “constructive ambivalence” (Peci 2005, 26-28). Time and again, the EU denied any responsibility to reassess the status question. When Milošević was purged in October 2000, Serbia's peaceful transition to democracy gave additional credence to the argument not

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<sup>30</sup> European Commission: *European Agency for Reconstruction. Annual Report 2001 to the European Parliament and the Council*, <http://ec.europa.eu/enlargement/archives/ear/publications/main/documents/EARAnnualReport2001.pdf> [29/06/2010].

<sup>31</sup> United Nations Security Council: *Resolution 1244*, New York, 10 June 1999, para. 10.

<sup>32</sup> Council Secretariat: *Interview with Javier Solana for Zeri*, 17 December 2002, p. 2.

to raise the I-Word (ICG 2002: 15). In this period, several European Councils explicitly stressed the non-violation of borders, territorial integrity and sovereignty in SEE.<sup>33</sup> In November 2001, the Belgian Presidency declared, “*We have not changed our minds. We are not in favour of independence*” (cited in ICG 2002: 2 [4]). In April 2002, the Commission stated that her association strategy was not meant to further splitting-up the region.<sup>34</sup> In February 2001, a European Parliament’s resolution recalled to respect existing borders.<sup>35</sup>

### *The March 2004 Riots: Turning Towards Confrontational Peace-Building*

The Kosovo Albanian elites began to resist the “standard before status”-imposition by the SRSG and the EU in earnest in early 2004. Members of the elite had constantly been criticising the uncertain status of the province (Ward/Hackett 2004; Kramer/Dzihic 2005, 173-175). In their opinion, the doctrine was the prime obstacle on the road to independence (Hajrullahu 2007, 207). Then, in March 2004, thousands of people in the province looted some 800 Serbian houses and 30 churches also expelling Kosovo Serbs from their former homeland enclaves in central and eastern Kosovo. 19 people died in the turmoil, including several members of UNMIK. KFOR could neither prevent nor stop the violence.<sup>36</sup> As a consequence, UNMIK’s then-head Harri Holkeri resigned.<sup>37</sup>

With these riots cooperative peace-building came to an end as Kosovo-Albanian elites could now threaten the EU and UNMIK with renewed violence (Narten/Zürcher 2009, 15). The riots not only changed the international community’s perception of the status question immediately: Shortly thereafter, the UN Secretary General’s special envoy to Kosovo, Karl Eide, proclaimed in two reports (in August 2004 and October 2005) to reverse course and water down the standards’ requirement. Eide made very clear that UNMIK’s strategy had failed and Kosovo’s stability was in danger. Only an immediate clarification of its status could pacify the province. He recommended to exclude further territorial changes, whether

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<sup>33</sup> European Council: *Conclusions of the presidency*, Stockholm, 23-24 March 2001, Paragr. 65, [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/de/ec/ACF191B.html](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/de/ec/ACF191B.html) [29/06/2010]; European Council: *Conclusions of the presidency*, Nizza, 7-9 Dec. 2000, paragr. 60, [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/de/ec/00400.%20ann.d0.htm](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/de/ec/00400.%20ann.d0.htm) [29/06/2010].

<sup>34</sup> European Commission: Report of the *Commission. The Stabilization and Association process for SEE. First Annual Report*, Brussels, 03/04/2002, p. 10, <http://eurex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0163:FIN:DE:PDF> [18/01/2008].

<sup>35</sup> European Parliament: Resolution on the situation in Kosovo, Strasbourg, 15/02/2001, paragr. 8, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P5-TA-2001-0097+0+DOC+XML+V0//DE> [29/06/2010].

<sup>36</sup> One parliamentarian of the Kosovo Assembly went so far as to publicly call the riots a “*legitimate revolt by the Albanian population*” and a “*lesson for the international community*”, cited in Narten 2009: 273.

<sup>37</sup> On the incidents during the riots see Human Rights Watch 2004 and ICG 2004.

unification with Albania or the division of the province.<sup>38</sup> In doing so, he rejected the Serbian proposals for a “cantonization” of the province (Judah 2004, 20-22).

Following the March 2004 riots, the Bush administration re-activated the “Contact Group for the Balkans”, now meeting as „Contact Group Plus“, involving representatives from UNMIK, NATO and the EU-Troika (Kramer/Dzihic 2005, 191). As a consequence, the agenda-setting role shifted from UNMIK to the Contact Group and the UN Security Council significantly eased its “standards-policy” while leaving the doctrine formally in place. Also, UNMIK, which had suffered from a growing dissatisfaction by Kosovo-Albanians (approval went down from 65% in November 2002 to 20% in July 2004), started to prepare for the end of its mission (King/Mason 2006, 210-211). The riots, though, did not induce any critical evaluation on the premises of the “standards before status-doctrine”.<sup>39</sup> Rather, the EU and the Commission in particular intensified their state-building efforts.<sup>40</sup> The EU set up a “*European Union Planning Team for Kosovo*“ (EUPT) as well as an “*International Civilian Office*“ (ICO). The latter was intended to prepare the ground for an incoming ESDP-mission (EULEX) which was planned to assist the Kosovar administration in police and juridical affairs (Szemler et al. 2007).

In the EU, the riots exacerbated the split on the status questions between the member states, the Commission and the European Parliament (Toshev/Cheikameghuyaz 2005, 281). While member states such as Spain, Romania and Cyprus, fearing domestic ramifications with their own minorities, remained reluctant to even address status, the Commission and even more so the EP supported a resolution of the question under precise deadlines.

Against this background, on 10 November 2005, the UN Security Council mandated the former Finnish President Martti Ahtisaari to serve as a mediator in the up-coming status

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<sup>38</sup> United Nations Security Council: *Report on the Situation in Kosovo*, New York, 06/08/2004, pp. 3-7, <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/kos%20S2004%20932.pdf> [29.06.2010]; United Nations Security Council (2004): *Report*; United Nations Security Council: *A comprehensive Review of the Situation in Kosovo*, New York, 07/10/2005, pp. i-iv, <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kos%20S2005%20635.pdf> [29/06/2010].

<sup>39</sup> It seems fair to suggest that the fulfillment of standards by Kosovo Albanian elites makes less sense when the realization of the reward, independence, is in doubt. Hence, symbolic compliance with international standards becomes a rational hedging strategy by local elites that depend on public support by a majority of citizens that is in favor of independence, cf. Narten 2008, 266.

<sup>40</sup> In the immediate aftermath of the April riots, HR Solana appointed a Personal Representative in Kosovo and opened a CFSP office in Priština in June 2004, the Council launched a “*European Partnership for Serbia and Montenegro*”, which dealt with Kosovo in a separate chapter. In November 2005, the Commission published for the first time an entirely specific progress report on Kosovo (Peci 2005, 26-27). This informal up-grading was complemented by a change of responsibilities in Brussels: Kosovo went from the DG External Relations to DG Enlargement (Alfons 2006, 357).

talks.<sup>41</sup> During the talks, UN special envoy Karl Eide and the Bush administration proved to be front-runners with the EU sitting on the side lines. The EU's High Representative Javier Solana desperately tried to claim a leading role for the Union and tabled a non-paper aimed at putting the status question on the agenda in the Council (ICG 2004, 29). Yet, the EU's capacity to act upon the status question suffered once more from the lack of consensus among its members: Only three out of the 25 member states could agree on the Solana initiative (Hungary, Luxemburg, Slovenia). Interestingly, even the EU members of the CG-Plus (UK, F, I, D) publicly stated that there was no need for immediate action (Toshev/Cheikameghuyaz 2005, 295-298). German officials, for instance, argued for patience in order to avoid a further destabilization of Serbia (Ker-Lindsey 2009, 52).

### *The EU's State-Building Dilemma: The Failure of the Status Talks*

From January 2006 onwards, the UN's Special envoy (UNOSEK) Ahtisaari chaired a total of 15 rounds of direct talks between negotiation teams from Belgrade and Priština with an agenda mostly determined by UNOSEK. With the positions hardening during the course of 2006, the UN mediator Ahtisaari declared in March 2007 that a compromise was not in reach and called off further negotiations, "*Belgrade would agree to almost anything but independence, whereas Pristina would accept nothing but full independence.*"<sup>42</sup> Following his mandate, he proffered a draft proposal for an agreement to the Security Council which foresaw a „*conditional independence*“ for Kosovo.<sup>43</sup> In the context of growing discontent within Kosovo<sup>44</sup> and with Russia threatening to veto any declaration in the UN Security Council, a new round of direct talks ensued in the second half of 2007 under the guidance of a Contact Group troika (EU, USA, Russia). After another five different resolutions drafted by the USA, France, and Britain (ICG 2007b, 2; Dzihic 2007b, 4), the mediation reached a final deadlock in December 2007.

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<sup>41</sup> United Nations Security Council: *Letter dated 10 November from the President of the Security Council addressed to the Secretary-General*, New York, 10/11/2005, <http://daccessdds.un.org/doc/UNDOC/GEN/N05/597/68/PDF/N0559768.pdf?OpenElement> [09/01/2008].

<sup>42</sup> UNOSEK Press Release: *High-level delegations of Serbia, Kosovo hold first status talks in Vienna*, Wien, 24 July 2006, [http://www.unosek.org/pressrelease/UNOSEK-PR-11-High-level\\_delegations\\_from\\_Serbia,\\_Kosovo\\_hold\\_first\\_Status\\_talks\\_in\\_Vienna.pdf](http://www.unosek.org/pressrelease/UNOSEK-PR-11-High-level_delegations_from_Serbia,_Kosovo_hold_first_Status_talks_in_Vienna.pdf) [29.06.2010]; UNOSEK Press Release: *Vienna High-level meeting concludes 14 months of talks on the future status process for Kosovo*, Vienna, 10 March 2007, [http://www.unosek.org/pressrelease/UNOSEK-PR-19-Vienna\\_High-level\\_meeting\\_concludes\\_14\\_months\\_of\\_talks\\_on\\_the\\_future\\_status\\_process\\_for\\_Kosovo.doc](http://www.unosek.org/pressrelease/UNOSEK-PR-19-Vienna_High-level_meeting_concludes_14_months_of_talks_on_the_future_status_process_for_Kosovo.doc) [29/06/2010].

<sup>43</sup> UN Security Council: *Report of the Special Envoy of the Secretary-General on Kosovo's future status*, 26/03/2007, <http://daccessdds.un.org/doc/UNDOC/GEN/N07/272/23/PDF/N0727223.pdf?OpenElement> [03/02/2008].

<sup>44</sup> Faik Fazliu, the leader of the KLA veterans, was outspoken: "*If there is no independence for Kosovo, we will be forced to act as KLA soldiers.*" Reuters 8 July 2007.

At the time, U.S. President Bush had already declared that the United States would recognize Kosovo's independence even without a Security Council approval (BBC, 10 June 2007). Thus, it came as no surprise that the U.S. administration recognized Kosovo within one day after it declaring its independence on 18 February 2008.<sup>45</sup>

Throughout the status talks, the EU experienced the full weight of its internal conflict management dilemma. To be sure, the Union had some leverage over Serbia and Kosovo, since both were aiming at eventual membership (ICG 2006a, 12 and 5; 2007b, iii). Also, if the EU had been able to speak with one voice, it might also have motivated Russia to move on the status issue (ICG 2006c: 5-6). Moreover, the EU and its member states whole-heartedly backed the Ahtisaari mission. And yet, after he tabled his report in March 2007, the unity disaggregated immediately.

To begin with, the European Parliament early-on reaffirmed the argument of „new realities“ in Kosovo which had established state-like structures.<sup>46</sup> The Commission, too, signalled concurrence with Ahtisaari's main findings while refraining from public calls for independence. Consequently, the Commission had no objections when Kosovo finally declared its independence.<sup>47</sup> In contrast, the EU Council remained cautious. At a Council meeting in Bremen in April 2007, it could not find any consensus on Ahtisaari's report and delegated the issue to the Security Council. It held Ahtisaari's report only as a „basis“ for further negotiations in the Security Council and avoided any statement on independence.<sup>48</sup> In contrast to the U.S. position, various member states – including Germany and Greece – were unprepared to accept any unilateral declaration of independence.<sup>49</sup>

With the EU split and the conflicting parties in deadlock, France's President Sarkozy proposed another round of negotiations limited to 120 days in order to offer a final chance for compromise, both within the EU and beyond, at the G8 meeting in Heiligendamm (Weller 2008, 58; Ker-Lindsey 2009, 75f.).

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<sup>45</sup> The White House: *Text of the Letter from the President to the President of Kosovo*, 18/02/2008, <http://www.whitehouse.gov/news/releases/2008/02/20080218-3.html> [29/08/2008].

<sup>46</sup> European Parliament: *Entschließung zur Zukunft des Kosovo und der Rolle der Europäischen Union*, Buchstabe H, 29.03.2007, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0097+0+DOC+XML+V0//DE> [29/06/10].

<sup>47</sup> Enlargement Commissioner appreciated the „climate of dignity“ in which the Kosovar Parliament had declared independence; Rehn, Olli: *European Institutions' reactions on Kosovo independence*, Speech in the European Parliament, Strasbourg, 20/02/2008, p. 2, <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/08/91&format=PDF&aged=1&language=EN&guiLanguage=en> [29/06/2010].

<sup>48</sup> *Council Conclusions on Western Balkans*, Luxemburg, 18 June 2007, pp. 1-2, <http://register.consilium.europa.eu/pdf/en/07/st10/st10583-re03.en07.pdf> [29/06/2010]

<sup>49</sup> Greek Ministry of Foreign Affairs: Text of FM Ms. Bakoyannis speech to the Parliamentary Standing Committee on National Defense and Foreign Affairs, Athens, 20 Febr. 2007, [http://www.mfa.gr/www.mfa.gr/Articles/en-US/21022007\\_McC\\_KL1651.htm](http://www.mfa.gr/www.mfa.gr/Articles/en-US/21022007_McC_KL1651.htm), [29/06/2010].; and Greek Ministry of Foreign Affairs: Statements of FM Ms. Bakoyannis following the EU GAERC, Brussels, 18 Febr. 2008, [http://www.mfa.gr/www.mfa.gr/Articles/en-US/190208\\_alp\\_1300.htm](http://www.mfa.gr/www.mfa.gr/Articles/en-US/190208_alp_1300.htm), [29/06/2010].



When the troika mission had finally failed on 14 December 2007, the Union reached a working compromise.<sup>50</sup> The EU Council also agreed upon an ESDP mission meant to replace UNMIK while mandating the High Representative to prepare for the EULEX-mission. Subsequently, Solana succeeded in convincing the non-recognizing member states – in particular Cyprus - to “constructively abstain” on the EULEX decision.<sup>51</sup>

The Common Actions agreed upon by the Council did not mention independence, nor did they refer to the Ahtisaari plan, nor to the troika process. Germany was now also willing to recognize Kosovo’s independence without the UN’s consent (Ker-Lindsey 2009, 89), but unanimity still could not be achieved. When Kosovo declared itself independent, the Council delegated the question of recognition to the member states, “*The Council notes that Member States will decide, in accordance with national practice and international law, on their relations with Kosovo*”.<sup>52</sup>

### *Assessment*

In the Kosovo affair, the EU has demonstrated a Janus-faced profile. On the one hand, Brussels behaved like a clear-cut civilian power regarding state-building: Massive financial means, personnel and further resources have been invested in Kosovo. These inducements are clearly meant to influence local actors’ preferences which are a main feature of soft power. In addition, the EU co-operates with the other institutions involved namely the UN and the OSCE. Security tasks, i.e. military force, the EU effectively delegated to NATO which runs KFOR in Kosovo. But the EU’s efforts go far beyond mere containment and stabilization. The creation of new institutions such as EULEX demonstrates the ambition to establish the rule of law and to enable Kosovo to join the EU one day. Its attempt to inherit the entire mission from the UN shows its pro-active will and the civilian power aspiration is remarkable: The EU is willing and capable of creating a state! This endeavour, led by the community institutions and the HR, is – that is in itself stupefying – unequivocal: Even the non-recognizing member states did not object to EULEX.

As exemplary as the EU’s civilian power ambition may be, the results on the ground are devastating. Even 10 years after take-off, the economic transition remains weak, state organs

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<sup>50</sup> Judah, Tim: *Kosovo Talks Unlikely to Come to Anything*, Balkan Investigative Reporting Network, 10/08/2007, <http://kosovo.birn.eu.com/en/1/70/3845/> [29/06/2010]; *Brussels European Council. Extract from the Presidency Conclusions*, Brussels, 14 December 2007, [http://www.consilium.europa.eu/uedocs/cmsUpload/071214-Extract\\_from\\_EUROPEAN\\_COUNCIL.pdf](http://www.consilium.europa.eu/uedocs/cmsUpload/071214-Extract_from_EUROPEAN_COUNCIL.pdf) [29/06/2010].

<sup>51</sup> Council Joint Action 2008/124/CFSP of 4 February 2008 on the EU Rule of Law Mission in Kosovo.

<sup>52</sup> Council of the EU: *Council Conclusions on Kosovo*, Brussels, 18/2/2008, p. 1, <http://www.consilium.europa.eu/uedocs/cmsUpload/98807KOSOVO.pdf> [29/06/2010].

do not function properly, corruption remains an ubiquitous problem, and the security situation tends to be precarious in areas with substantial minorities (Dzihic and Kramer 2008; King and Mason 2006).

On the other hand, representing the dark side of Janus, the civilian power in state-building has been constantly undermining its own credibility by falling apart on the recognition issue. The Union, including 27 member states, agrees on state-building which requires enormous resources and – of course – leads to a state at the end of the day. Yet the EU seems unable to acknowledge the consequences of its own actions (Vogel 2009). Inconsistency on the status question led to detrimental policy outcomes: By tabooing the status question until 2004 it triggered violence, by further hesitating it spurred US reaction and Russian intransigence and by excluding territorial changes it emptied the win-sets in the negotiations 2005-07. Incompatible national identities – as I would argue – inhibit “the force for good” and precipitates bad foreign policy outcomes (Harnisch and Stahl 2010). Unfortunately, the foreign policy disaster on recognition perfectly goes in line with previous recognition failures (Slovenia, Croatia, Bosnia, Macedonia). Coherence and similar learning processes remain a prerequisite for any reasonable foreign policy.

#### **4.3 Enlargement: Negotiating the SAA with Serbia (2005-2010)**

##### *Context*

In international politics terms, before 1989, the former Yugoslavia had been a real success story since it provided peace and prosperity to the Balkans and even served as a leading power of the reputable non-aligned movement from the 1960s to the 1980s. Therefore, it used to be common place that Yugoslavia would be among the first to be able to join Western institutions after the wall came down in 1989. This perception entirely vanished with the dissolution of Yugoslavia which brought about war, ethnic cleansing and genocide. In the course of events, Serbia was increasingly seen as the main culprit of the horror. To be more precise, in the public discourses in the EU countries the autocratic regime of Slobodan Milošević was held responsible – not the Serbian people (Stahl and Harnisch 2009, 81 et sequ.). This was the main justification for militarily attacking the state institutions and symbols of power in the Kosovo bombing campaign 1999.<sup>53</sup> Historically speaking, the Eastern question was now being transformed into a “Serbian question”: Without a peaceful, democratic, territorially saturated Serbia, so the common wisdom goes, the Balkans will remain unstable. Consequently, when Milošević was ousted from power in 2000 by mass

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<sup>53</sup> This perception is not understood in the Serbian public where “NATO aggression” is the actual term to denote the Kosovo war meaning that Serbia was attacked as a whole (Stahl 2008).

demonstrations, the EU reacted enthusiastically promising to commit itself to the democratization and stabilization of the new Serbia. The incoming Djindjić government enjoyed a very positive reception in the West and – for instance - was massively supported by Western economic aid. Djindjić's assassination in early 2003 even led the EU to intensify its efforts. Yet the real turning point in the EU-Serbian relations was the Thessaloniki EU Council in June 2003, where the EU perspective of the entire region was confirmed. Under the procedure of “Stabilization and Association Process” the EU established an Enhanced Permanent Dialogue with Serbia a month after the Thessaloniki Summit which was actually upgrading the already existing EU-FRY Consultative Task Forces (Djordjevic 2008, 89). Following this, the EU tried to speed up the process of Serbia's rapprochement to the Union considering that the accession process turned out to be the EU's most successful foreign policy tool in transforming acceding states.

#### *2003-2006: The EU Consensus: Silencing Kosovo, Europeanising Serbia*

After Djindjić's murder, Serbia's transition to democracy stumbled. The young and dynamic Prime Minister had gained reputation by extraditing Milošević to The Hague where he was facing accusations on war crimes, crimes against humanity and genocide. In the 2003 elections, the nationalist Serbian Radicals won 27,6% of the vote becoming the strongest party, Milošević's Socialists achieved 7,6% while the more modernist parties G17+ and Democratic Party (DS) scored 11,5% and 12,6% respectively. Positioned between them was the national-conservative Serbian Democratic Party (DSS) together with New Serbia (NS) 17,6% and the monarchist Serbian Renewal Party (SPO) which was able to achieve 7,6% of the vote. In terms of power politics, Serbia's domestic scene after Milošević was characterized by a “cohabitation” situation: After his victory in the presidential elections in the summer of 2004, President Tadić represented a more modernist direction while Prime Minister Koštunica stood for the national-conservative clientele. The latter formed a minority government which consisted of the DSS-NS, the G17+ and the SPO which was partly supported by the Socialists (SPS). Early on, in April 2004, Serbia's government launched an initiative for solving the Kosovo issue in form of a division of territory. But it was rejected by Kosovo-Albanians and the international community alike with reference to the Contact Group's common guidelines (DAN 29 November 2004). In June 2004, with the votes of the Radicals, the Socialists, and the government parties (without G17+), the Serbian Parliament

decided to grant financial aid to Milošević's and Šešelj's relatives.<sup>54</sup> The EU reacted with irritation claiming that only if full cooperation with the ICTY was provided, the Stabilisation and Association Agreement talks (SAA) could be opened. In April 2005, the Serbian government extradited four army generals to the ICTY.<sup>55</sup> The EU then decided to tie Serbia on a European track. In October 2005, the Commission and the Council agreed upon opening the Stabilisation and Association Agreement talks (SAA) which serve as a pre-requisite for the membership application. This start meant a "*leap of faith*" (Patten) since the usual conditions were not yet met (cf. Reuter 2005, 380). In March 2006, Enlargement Commissioner Olli Rehn made it entirely clear that the detention of Ratko Mladić, the former leader of the Bosnian Serbs military forces who was the no. 1 on the ICTY's wish list, served as a non-negotiable pre-condition for further EU integration. Consequently, Prime Minister Koštunica promised to the international community that Mladić would be delivered in the following month (Raith 2006, 40). Since the Serbian government did not deliver the EU suspended the SAA in May 2006 for an indefinite period of time. When the ICTY chief prosecutor, Carla Del Ponte, confirmed that cooperation on behalf of Serbia was insufficient the EU stayed on the track and prolonged the suspension. Meanwhile in Belgrade, the centre-conservative minority government broke apart since the modernist G17+ party no longer tolerated Koštunica's non-cooperative policy vis-à-vis Brussels and The Hague.<sup>56</sup> Prime Minister Koštunica lamented that, "*(t)he policy of a permanent setting of conditions, that has been conducted for a while towards Serbia, is deeply wrong and so far produced exclusively negative effects.*" (EU observer 19 June 2006). New elections were set for early 2007. In the West, concerns grew that the Radicals would win the elections.

In the ensuing power struggle, Premier Koštunica made the Kosovo question his core theme in the election campaigns of 2006 (also 2007 and 2008), forcing President Tadić to respond. Since the EU had rejected the cantonization plan he called for a "national consensus on Kosovo". Consequently, Tadić closed ranks with Koštunica's DSS, the Socialists and the Serbian Radicals. The President agreed to a new Serbian constitution which hailed Kosovo as

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<sup>54</sup> Šešelj, until today the leader of the Serbian Radical Party, was the leading politician of Serbia's "nationalist turn" in the late 1980s and 1990s. He deliberately went to the ICTY in The Hague to face numerous accusations. The verdict on his case is expected soon.

<sup>55</sup> Since the new Prime Minister Koštunica (DSS) had shown his explicit disdain for the tribunal he had promised not to detain ICTY indictees by force and so the generals pretended to have come "voluntarily". Yet as one of the generals appeared in his pyjama and slippers in The Hague this rhetoric remains debatable (ICG 2005, 2). The extradition was accompanied by a media chorus which did not remind the public of the terrible crimes the indictees were accused of. Rather, their heroic attitude was praised since they sacrificed themselves to secure Serbia's way to Europe.

<sup>56</sup> See the interview with the resigned vice-chancellor Miroljub Labus: „*The Prime Minister broke his promise*“ (B92 3 May 2006).

an integral part of Serbia.<sup>57</sup> The uniting on the domestic front was complemented by a foreign policy re-orientation: Tadić and Koštunica sought support for the Serbian position in Moscow. In early 2006, the Serbian government issued a resolution on Kosovo in which Serbia had agreed to start talks on the autonomy of the region. At the same time, Koštunica's chief adviser Simić made clear that these talks would not touch upon independence since this had been excluded by Resolution 1244 (B92 18 January 2006). During the ongoing negotiation, Brussels and the member states encouraged Belgrade to demonstrate more flexibility.

#### *2007-2008: Giving Up Conditionality - Bargaining on Kosovo and the Dutch No*

The idea of a “grand bargain” - granting fast-track integration into Euro-Atlantic structures in exchange for the Serbian recognition of Kosovo - was popular in Brussels and Washington for some time. The EU and the US felt increasingly tempted to bargain on the SAA and Kosovo. So NATO decided in November to invite Serbia to the alliance's Partnership for Peace programme. In December, Greece, Italy and Denmark urged the EU to lift the SAA suspension but the UK, France and the Netherlands objected to the initiative (EU observer, 11 December 2006). Yet Brussels offered Belgrade negotiations on visa procedures.

The January election 2007 saw slight losses for the ruling national-conservatives under Koštunica while the Radicals went up to a new high of 28,6%. Since the DS under Tadić gained 10% (up to 22,7%, partly at the expense of G17+) and the Liberal Democrats entered the Parliament (5,3%) Koštunica formed a new government including the DS. This more “European” government found a positive reception in the West. Romania, Italy and Greece claimed to replace the restrictive conditionality concerning Mladić by a more flexible definition of cooperative behaviour (EU observer 23 January 2007). Surprisingly, Rehn declared in March that the candidate status was still in reach for 2008 (EU observer 7 March 2007), which was met with disbelief in some member states. Meanwhile in 2007, the ongoing Kosovo negotiations resonated badly with the Serbian public. When UN chief negotiator Ahtisaari launched his plan for the province, Premier Koštunica called his plan “*an act of legal aggression*” (EU-Observer 27 March 2007) and refused to meet him when he came to Belgrade to present his plan. A Serbian daily newspaper, the Kurier, even compared the chief negotiator to Hitler (cf. Ramet 2007, 52).

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<sup>57</sup> Since the fall of Milošević in 2000, the work on the constitution has been pending. In a sudden coup, it was rushed through parliament when amended by the Kosovo stipulation. Remarkably, for securing a majority in the referendum on the constitution, the government erased the Kosovo-Albanians from the election register (DW-world 26 October 2006). By so doing, the Kosovo-Albanians were deprived of a core right of citizenship. This clearly indicates that the government's later slogan “*Kosovo is Serbia*” only alludes to the territory but not to 90% of its inhabitants.

In May, another fugitive, Mladić's assistant Zdravko Tolimir, was found in Bosnia and transferred to The Hague. This success was officially attributed to the cooperation between Bosnian and Serbian secret services. In fact, the severely ill suspect used to live in his house in Belgrade before he was secretly brought to Bosnia by night. There, he was placed in an empty house where a NATO command could find him (Economist 9 June 2007). The EU followed the plea made by some of the member states and subsequently unblocked the SAA. The second half of 2007 saw the final, troika-led negotiations between Serbia and Kosovo-Albanians on Kosovo's status. Italy had proposed to grant Serbia the candidate status in exchange for Kosovo's independence (NZZ 24 September 2007). Yet, as critics such as former RELEX Commissioner Patten argued at the time, all these incentives would undermine the conditionality principle (Frankfurter Rundschau, 11 October 2007). In November, the Commission announced the finalization of the SAA just before the Serbian presidential elections, although the initial requirement of "*full cooperation with the ICTY*" had not been achieved. This was clearly meant to help the DS candidate Boris Tadić against his challenger Tomislav Nikolić from the Radicals. Among member states, only the Dutch government – for identity reasons related to the massacre in Srebrenica - did not follow suit and refused to sign the SAA before the Serbian government had delivered the main suspect for the Srebrenica genocide, Ratko Mladić. To offer something, the EU thus created an "*Interim Agreement on Trade Issues*" (ITA) and raised the prospect of visa-free access to the Schengen space for Serbian citizens. Meanwhile, the troika's endeavours finally failed on 14 December 2007 and all analysts awaited the Kosovar unilateral declaration of independence. In January 2008, the Commission again offered Serbia talks on lifting visa obligations. The Slovene presidency vainly attempted to convince the Dutch government to sign the SAA (B92 16 January 2008). But also Koštunica rejected any deal with the EU linking the SAA to Serbia's goodwill on the Kosovo question. He refused to sign the ITA, arguing that Kosovo cannot be part of a deal even if this would mean blocking accession, "*Belgrade will not bargain on Kosovo*" (EU-observer 20 September 2007). He also insisted that the EULEX mission would prejudice state-hood. The EULEX mission would help to establish a "*puppet state*" on Serbian soil, "*the most dangerous precedent after WW II*" (BBC 14 December 2007). By contrast, President Tadić argued that EULEX would be "status-neutral" so that Serbia's position on Kosovo would by no means jeopardize its EU integration. In order to support Tadić, the EU's special envoy to Kosovo, Pieter Feith, announced that EULEX deployment in Northern Kosovo would be postponed to after the Serbian elections (B92 13 March 2008).

*After Kosovo's Declaration of Independence: The End of Coherence*

The unilateral Kosovar declaration of independence triggered protests in Belgrade and Northern Kosovo. In the Serbian capital, demonstrators looted Western Bank subsidiaries and supermarkets, attacked the Turkish, British, Croatian, German and US embassies and a border check-point in Kosovo. A furious Prime Minister commented on the declaration of independence, *“It has to be legally annulled the moment it was legally proclaimed by leadership of convicted terrorists”* (cf. BBC, 12 February 2008). Accordingly, Serbia's government did not protect the Western Embassies and withdrew the security forces. Prime Minister Koštunica even praised the Serbian youth for their commitment and wisdom (B92 27 February 2008). Some sources also suggest that the government in Belgrade orchestrated attacks on a UN border check-point in Northern Kosovo (BBC 18 March 2008). The EU's High Representative, Javier Solana, condemned the violence and suspended the SAA (NYT 23 February 2008). Yet, only six weeks later, he ignored his earlier words pushing for an early signing of the SAA just before the imminent Serbian elections in May (DW 17 April 2008). In addition, the EU publicly recommended voting for the „Pro-European“ parties and again invited the government to sign the ITA.

In April, only a few weeks before the elections, the Serbian President and the Finance Minister travelled to Luxemburg and signed the SAA with EU officials. Meanwhile at home in Belgrade, the Serbian Prime Minister declared the President's signature as being void. The politics of farce peaked when the Netherlands and Belgium stated that the SAA would not be put into force before Mladić was sent to the ICTY. All too obvious, the EU had simply joined Tadić's election campaign. In the Serbian elections of May 2008, Tadić's coalition “Serbia for Europe” (including DS, G17+, SPO) achieved 39% and declared itself the winner of the elections. The Pro-European parties were able to gain 6% vis-à-vis the centre parties around Koštunica. This result was praised in the Western press as a huge victory for Europe. But still, the pro-European parties did not hold the majority in parliament! So president Tadić formed a government with the Socialists – the party of the former dictator Milošević – as a junior partner assuring the EU that Serbia would remain on an integration track.

In June 2008, another war criminal suspect at large, Stepan Župljanin, was delivered to The Hague. Since the EU did not budge – due to the Dutch objections – the Serbian government detained Radovan Karadžić, the former political leader of the Bosnian Serbs, in Belgrade. The

main political culprit of the mass killings and “ethnic cleansing” in Bosnia had been living in Belgrade for years. The HR Solana reacted in an enthusiastic manner:

*“This is a turning point in fulfilment of well-known conditions set to Serbia on its path to integration with Europe. The EU shall immediately consider what conclusions are to be made from this positive development of events and I am sure we shall move ahead together with Serbia. I very much hope that this shall make possible for the chief prosecutor of the Hague Tribunal to say that the cooperation is developing in good direction. We also expect from the authorities in Serbia to continue with their efforts on locating and arrest of the remaining two fugitives still at large”.*<sup>58</sup>

Following this, Solana lobbied to lift the Dutch veto on the ITA but to no avail. By so doing, he demonstrated that he recommended easing the conditionality principle (Solana 2009). Yet Holland still refused to put the SAA into force without Mladić. In Serbia, the pre-eminent split on Europe triggered further effects on the party system: When the ITA was put to the Serbian parliament the Radical Party split over the issue and Šešelj’s deputy, Nikolić, left the party to launch the “Serbian Progress Party”. Though this did not mean any change concerning Kosovo consensus. Even after Kosovo’s declaration of independence in February 2008, all Serbian parties further agreed on a “united state policy” on Kosovo (B92 12 February 2008). Instead of accepting EU incentives, Serbia launched a diplomatic lobbying campaign against Kosovo’s independence. In October 2008, Serbia won the UN Assembly’s approval for bringing the Kosovo issue to the International Court of Justice (ICJ). Hence, the EU countries were compelled to legally justify their position on Kosovo’s independence.

The EU, though, granted new incentives to Serbia. In July 2009, the Commission announced to suggest visa-free EU travel for Montenegro, Macedonia and Serbia (BBC 15 July 2009). In December, the Netherlands acquiesced to unblock at least the ITA after Serge Brammertz, the ICTY prosecutor, had testified to Serbia’s positive cooperation with the tribunal (IWPR 16 December 2009).

In February 2009, the Serbian Office for EU Integration stated that Serbian Parliament failed to put ca. 25 SAA laws into force: Only 17 out of the planned 64 laws had passed parliament (B92 6 February 2009). In the same month, Olli Rehn stated that „*applying for EU candidacy is not advisable in 2009*“ (EU watch 10 February 2009). The Serbian government followed his advice: It applied for membership in January 2010. By so doing, it ignored the usual sequence in the accession process and delivered an application before the SAA was in force.

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<sup>58</sup> Cf. “*What Serbia can expect from EU after extradition of Radovan Karadzic*”, Blic (23 July 2008).



In a revealing statement, the Western powers seemed increasingly doubtful as to whether their strategy on Serbia still worked. In early 2010, Western powers complained in a letter to Serbia's Foreign Minister, Vuk Jeremić, that their incentive-based approach had been exploited by the Democratic Party (DS):

*"We have tolerated until now the Serbian aggressive rhetoric regarding Kosovo, because we believed that with time passing it could be taken off the agenda. Our partners in Belgrade have told us that the statements of minister Jeremic about Kosovo aimed to protect President Tadić from attack by Serbian nationalists, and the initiative to ask the ICJ for an advisory opinion on the Declaration of Independence was just a manoeuvre to remove Kosovo from the political agenda in Serbia. None of this seems to be the case (...)"*<sup>59</sup>

Yet publically, the EU went on with its soft course vis-à-vis Serbia. When the ICTY prosecutor diagnosed "cooperation" – yet not the initially required "full cooperation" – the caretaker government in The Hague gave up its reservation and started the ratification of the SAA. The ICJ opinion<sup>60</sup>, released in July 2010, gave a boost to the EU majority fraction's view that Kosovo's independence should be treated as a *fait accompli*.<sup>61</sup> Yet the five non-recognizing member states did not make use of the opportunity to change their mind. Serbia, by contrast, intended to launch a proposal to the UN General Assembly criticising the ICJ's opinion. The EU put strong pressure on Belgrade to change the proposal. After the Serbian government had diluted the text, HR Ashton and most member states re-iterated their will to grant Serbia a "fast-track" to membership (waz.euobserver, 10 June 2010). Yet the ICTY's prosecutor, Serge Brammertz, openly clashed with Enlargement Commissioner Füle and HR Ashton over the issue while the Netherlands and Germany remained sceptical on whether to grant further rewards to Serbia (waz.euobserver 7 October 2010). Yet in November 2010, the Council officially passed Serbia's application to the Commission.

### *Assessment*

Regarding the SAA, the EU's foreign policy towards Serbia stands out because of three characteristics. First, the EU (over-)burdened the SAA with further issues, one being the cooperation with the ICTY in The Hague, the other being the Kosovo issue. The EU started the SAA by explicitly linking it to the cooperation with the Yugoslavia tribunal in general and

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<sup>59</sup> Diplomatic note by the Foreign Ministries of Germany, France, Italy, the United Kingdom and the United States to the Serbian Foreign Minister, Vuk Jeremic; cited in: waz.euobserver, 9 February 2010.

<sup>60</sup> The ICJ ruled, in essence, that the Security Council Resolution 1244 had not ruled out Kosovo's declaration of independence. In this regard, the unilateral declaration of independence was not in breach with international law as Serbia is claiming.

<sup>61</sup> For instance, the German foreign minister Westerwelle, when visiting Belgrade, claimed that "Kosovo's borders are fixed" (Die Welt, 27 August 2010).

the extradition of General Mladić in particular. This linkage was partly successful since Serbia felt compelled to extradite one indictee after another to secure SAA progress. Yet the circumstances of the deliveries, its media echo and the fact that Mladić is at large until today suggest that its “civilising” impact has remained tenuous: Serbia reacted to the financial incentives not because of norm internalisation.

Second, the Union massively interfered with Serbian election campaigns. This is highly unusual since the EU used to refrain from doing so even in the case of EU treaty referenda. By so doing, it was again partly successful considering that the Serbian Radicals could have withheld from power. But the EU’s Serbia policy has become hostage of President Tadić who has forthrightly instrumentalised Brussels for his domestic power games – the Luxemburg signatory act hit rock bottom in that respect. With the help of the EU, he became the by far most powerful politician in Serbia. Despite his merits regarding international reconciliation, his record entails the “unified Kosovo policy”, orchestrated street violence, aggressive victimisation rhetoric (channelled through his former adviser Foreign Minister Jeremić) and the avoidance of any domestic debate on Serbia’s ownership in the Yugoslav and Kosovo Wars. Last, but not least, he transformed the Serbian parliamentary republic into a *de facto* presidential one serving his purpose.

Third, conditionality was transformed to mere inducements. The EU sacrificed its conditionality principle – the core of its enlargement policy – in order to keep Serbia on the European track. Conditionality rewards co-operative behaviour. Serbia basically refused to cooperate: It did not move on Kosovo, it did not deliver Mladic and did not pass “European” laws in adequate speed. Rather, it made things more difficult for the international community by asking for an ICJ opinion on Kosovo, by choosing Russia as preferred partner, by hiding the war criminals, by blaming the EU for not abolishing visa requirements for Serbs. The EU deliberately gave up its hard power tool while rewarding Serbia for correcting its proper un-cooperative behaviour. By so doing, the Union also departed from its civilian power ambition. The fact that Brussels accepted governmental lies on the war criminals, that it generously overlooked government-enabled attacks on its embassies, that it silenced the unlawfulness of claiming Kosovo while depriving Kosovo-Albanians of their voting right and that it forgot its proper promise on Mladic evidently demonstrated its non-interest in profoundly civilising Serbia. Rather, the EU trusts in its soft power means to stabilise Serbia. The case, hence, provides evidence how the Union simultaneously gave up hard power and civilian power ambitions for the (debatable) sake of soft power.

## 5. Conclusions

The findings of the three cases under study can be summarized as follows:

*Graph 4 (by author): Overall Assessment*

<b>Cases</b>	<b>Kosovo war</b>	<b>Kosovo State-Building &amp; Recognition</b>		<b>SAA with Serbia</b>	<b>Assessment</b>
<b>Criteria: Effective?</b>					
<b>Hard Power</b>	yes	no	no	no	rather no
<b>Capacity to Act</b>	no (delegated)	y	n	y	rather yes
<b>Soft power: Co-optive Behaviour/ Persuasion</b>	n	y	n	y	yes
<b>Attraction</b>	n	y	no	y	rather no
<b>Coherence</b>	y	y	no	n	Rather yes
<b>Civilian power</b>					yes
<b>Willingness to Act</b>	y	y	no	y	yes
<b>Norm Entrepreneur</b>	y	y	y	n	yes
<b>Delegate Sovereignty</b>	n	yes	n	n	hesitant
<b>Overall Effectiveness</b>	y	no	no	no	hardly

### *On Hard and Soft Power*

As the Kosovo War case has impressively demonstrated, hard power has its merits. When all diplomatic means were exhausted the Western powers felt compelled to go to war. Since the EU lacked military capabilities, to include NATO was the choice of the day. In case of ethno-political conflicts, the “smart power” argument that Nye has put forward prevailed. Hard power meant effective delegation in the Kosovo War; the EU needed the US to be successful. But US influence waned over time. In the Kosovo negotiations it was perceived rather as disturbing, vis-à-vis Serbia the US backed the EU. Contrary to common wisdom, the EU certainly has hard power means at its disposal i.e. the conditionality tool. Yet as the Serbian case has demonstrated, the EU deflated its most promising instrument in order to achieve short-term stability gains. So overall, soft power means, i.e. promises of membership,

persuasion, the power of attraction (also because of long-term economic gains) and personal presence, proved more prevalent than hard power. Regarding Kosovo recognition, state-building and Serbia's SAA hard power did not play any significant role – in particular since the conditionality principle has deliberately been given up. Even without reasonable hard power, the EU disposed of some “capacity to act” to make a difference. But soft power only partly worked. Certainly, the Union can rely on its proper attraction: All countries of the region strongly wish to join the EU. Whether they would like to change adequately and pursue painful domestic reforms, is another question. The power of persuasion – though – has remained weak: The Kosovo-Albanians even instrumentally used violence for putting pressure on the EU, the Serbian governments were largely un-cooperative and abused the Union for domestic power games. It seems that the EU largely takes its attraction for granted and reckons that time itself works as a positive factor for reform and reconciliation. But this calculation could be deceitful since the growth of young generations in nationalised societies means that war-fatigue decreases as well. If this pattern prevails the Union will face the question to accept the countries “as they are” or to leave them out in the cold. Both alternatives are highly unfortunate.

### ***On Coherence***

What role did coherence play in the case studies? Coherence, indeed, turned out to be a necessary pre-requisite for success. In the Kosovo War, the main EU member states all agreed on the urgency of the problem, shared common institutions to deal with the crisis, agreed to threaten Serbia with air strikes, and actively contributed to the “bombing campaign”. Consistency was a key for the West's success to end the bloodshed in Kosovo. In turn, the temporal incoherence which became apparent in the Rambouillet negotiations did weaken the common stance. The Kosovo status issue underlines this point: When the member states disagreed on a common stance vis-à-vis Kosovo, the EU's foreign policy was paralysed. As a consequence, the Union could neither act autonomously nor was it recognized as a serious actor. The initiative, therefore, went over to the US and Russia and even motivated the conflict partners in Kosovo to spoil the peace process. This case demonstrates that the “Brussels actors” need at least the Council's permissive consensus in order to act. Even the big three's consent – so often referred to in the ESDP/CSDP literature as being vital – did not suffice here. Although France, the United Kingdom and Germany acquiesced to the Ahtisaari plan, the deviating five member states inhibited any forceful action regarding recognition. As much as coherence is a necessary condition for EU actorness, it is not a sufficient one.

Kosovo state-building serves as a prime example here. Despite the EU's coherence, despite inter-locking institutions and despite remarkable financial support – the per capita world record – the transition results can be called modest at best.

### *The EU as a Civilian Power*

Since 1999, the EU has been staking its claim in constructively building up the Balkans. Their civilian power ambitions have led to remarkable political endeavours: The Union stabilized Kosovo by massively investing in its state-building, it shaped the negotiations on Kosovo's status and framed Serbia's pathway to Europe.<sup>62</sup> In addition to the efforts the EU undertook, one should also consider the unfavourable context. In the last years, the Union was haunted by a growing enlargement fatigue within the EU: by the torpedoing of the constitutional treaty; and by – to put it modestly – sluggish transitions to democracy in the region. Moreover, the first decade of the 21<sup>st</sup> century saw the worst US foreign policy since the Second World War, demonstrating a particular lack of interest in either institution-building or co-operative foreign policy. In addition, the EU was confronted with a period of Russian resurgence – starting in 2006. Therefore, by comparing EU foreign policy to that of either the US or Russia, Brussels' efforts shine in an even more positive light. The Union clearly demonstrated its will to take responsibility for the region. In its operative work – be it the huge task of state-building in Kosovo or the negotiations with Serbia – the community actors carry the day. The HR's (i.e. Javier Solana) and the Commission's overwhelming presence in the last decade proved their superiority in post-conflict management vis-à-vis the member states. Evidently, the national foreign policy apparatuses are not able to provide a presence similar to that offered by the EU institutions. The foreign ministers, for instance, did rarely put in appearances in the region and intervened there only haphazardly. It was Solana, his special envoys and the Commission who represented the EU in Kosovo, not the foreign ministers. Regarding state-building in Kosovo, for instance, the EU over time became the most important donor and was entrusted to replace UNMIK.

The Commission and the HR do the everyday work and make the common plea for inter-locking institutions real. Yet the common institutions cannot rely on the member states' consent when it comes to tough decisions. In the Kosovo recognition case, the member states added another foreign policy limbo to the EU's disaster list. We have demonstrated elsewhere

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<sup>62</sup> One should mention further projects here which are not part of this study such as the administration of Bosnia and Herzegovina or the conflict resolution in Macedonia 2001 and the State-Union of Serbia and Montenegro (Stahl 2011 forthcoming.).

that this was due to very different national identities which triggered diverging learning processes (Harnisch and Stahl 2010).

In the SAA negotiations with Serbia, only the Netherlands still cling to the civilisational ideal of a civilian power EU acting as a norm entrepreneur. Meanwhile, the large majority of the other EU member states have given up on this idea seeking short-term gains to stabilize Serbia by granting more and more incentives. Considering the similar case of Bosnia's SAA and the failed police reform – which was admittedly not part of this study – indications grow that the EU tends to abandon its ideals – the civilian and normative power EU has reached its limits. By so doing, the South-Eastern enlargement will become a “strategic enlargement”, not a “civilisational” one (Stahl 2010). The South-Eastern countries will enter the Union because of destabilization and the lack of alternatives but not because of their belief in the virtues of European integration and probably without having absorbed the *acquis*.

Hence, finally, the title question “*How Soft, How Civilian, How Effective*” demands a response. In the last decade, the EU has used less and less hard power, has decreasingly acted as a civilian power but has increasingly employed soft power – all of which led to more ineffectiveness.

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